



Executive Memorandum

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NATIONAL SECURITY CONCERNS AND THE CHINA TRADE DEBATE

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The animated debate over whether to extend permanent normal trade relations (PNTR) to China has moved from the U.S. House of Representatives to the Senate following the passage of H.R. 4444 on May 24 by a vote of 237 to 197. While the bill's passage in the House is the first step toward granting PNTR to China, it will not resolve either the specific and important differences that remain between the United States and China on democratic values and individual liberties or serious concerns over China's proliferation activities.

H.R. 4444 does address other issues besides PNTR, such as a means to monitor China's compliance with its World Trade Organization (WTO) obligations, a task force to monitor the use of forced or prison labor in producing goods that reach the United States, measures to assist China in developing the rule of law, and a congressional task force to monitor its progress in protecting human rights. These provisions increased the bill's attractiveness. Indeed, as President Bill Clinton, several former Presidents, and a host of other U.S. policy leaders made clear during the weeks before the bill passed the House, granting PNTR will help make American businesses more competitive in China and increase trade, help the Chinese people develop a system based on free enterprise, and promote the development of a middle class in China.

But these benefits of trade and the fact that H.R. 4444 deals with other issues must not overshadow the serious concerns that continue to be expressed

throughout America on China's proliferation of weapons of mass destruction and other activities that undermine regional stability and threaten U.S. national security. To address these concerns, Senators Fred Thompson (R-TN) and Robert Torricelli (D-NJ) introduced as parallel legislation the China Nonproliferation Act (S. 2645) on May 25.

National Security as a Non-Trade Issue. The debate over PNTR for China highlighted the fact that in the view of many Americans, not enough attention has been given to Beijing's activities in other areas, such as religious freedoms, democratic reforms, human rights, labor standards, and proliferation activities. Until recently, little parallel legislation had been introduced in Congress to address China's proliferation or Beijing's habit of misusing controlled goods, services, and "dual-use" technology. Yet the evidence is growing that Beijing is using civilian technology for military purposes or for purposes other than that for which it had been purchased.

As Senator Thompson noted when introducing the China Nonproliferation Act, "If China is going

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to be one of our trading partners, it's not too much to require them to stop providing weapons of mass destruction to countries who might someday use them against us." Under S. 2645, any persons, groups, or companies within China—including U.S. "persons" doing business in China—would face immediate (and escalating) penalties if they violated international nonproliferation treaties or agreements or U.S. export control laws in any way that contributes to proliferation.

The China Nonproliferation Act would require the President to conduct annual reviews of China's proliferation of weapons of mass destruction, missile technologies, and advanced conventional weapons. It includes punitive measures that could be applied against the proliferators and the Chinese government—consistent with WTO rules and obligations—such as denying pending licenses and suspending existing licenses for export items listed under the Arms Export Control Act, the Export Administration Act of 1979, and the Export Administration Regulations. It also would prohibit the U.S. government from purchasing goods and services from a known proliferator.

S. 2645 especially focuses on the sale or diversion of U.S. goods, services, or technology to China's state-owned enterprises that are under the control of the People's Liberation Army (PLA). It requires the President to submit to Congress, by June 1, a report identifying persons (and corporations) in China that have transferred, retransferred, sold, misused, or diverted such goods from the intended recipients to a foreign person involved in the development or acquisition of nuclear, chemical, or biological weapons or ballistic or cruise missiles. And it requires the President to report any instances of China's noncompliance with non-proliferation treaties or agreements.

While there is no perfect means either to detect cheating or to deter noncompliance with agreements, the Thompson-Torricelli bill would give the

President the lever to press when the United States does detect China's noncompliance or the diversion of technology to inappropriate agents or uses. It sets forth the reasonable and effective punitive measures to impose in those cases.

In the past, China's leaders have managed to dodge measures that were designed to address non-compliance. This bill is an attempt to resolve that problem. More important, its non-trade punitive measures are consistent with the terms of the WTO agreement that the Administration recently signed with China, which would enable the Administration to address any failure on the part of Beijing to live up to its commitments, including specific provisions in licensing agreements on controlled goods or services. Thus, the Thompson-Torricelli proposal effectively addresses the serious concerns both inside and outside of Washington over China's proliferation activities.

Conclusion. Granting permanent normal trade relations to China is an important step in advancing U.S. interests. In addition to making American businesses more competitive in China, increasing trade will help to develop a market economy in China and private enterprises that will help weaken the dependency of many Chinese people on the communist government. In short, PNTR is in the best interests of the American people and the people of China.

Granting PNTR will not, however, resolve all of America's concerns with China. The House was right to approve the President's request to give China the same trade status America offers almost every other country. But as the Senate considers the China trade bill, it should also consider carefully crafted legislative proposals that would effectively address other national security and non-trade concerns.

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